IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPLICATION NO.65 OF 2002

The Comissioner of Income-tax ..Applicant.

V/s.

Josts Engineering Co. Ltd. ..Respondent.

Mr.Ashok Kotangale for the applicant.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 10TH JULY, 2006.

P.C.:

. Heard the learned counsel for the applicant. The applicant seeks to raise the following substantial questions of law incorporated in paragraph 4 page 3 of the application:-

1. Whether on the facts and in the circumstances of the case the Tribunal was right in law in holding that the provisions of S.40(c) and not of 40A(5) are applicable in respect of remuneration payable to Managing Director and in directing to compute the disallowance of remuneration paid in accordance with the provisions of Sec.40(c) of the Income-tax Act ?

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in directing the assessing officer to allow depreciation at the rate of 30% on industrial platform trucks?

3. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in directing the assessing officer to exclude a

sum of Rs.2,50,688/- being expenditure incurred on printing of leaflets and newsletters for the purpose of computation of disallowance u/s.37 (3A) of the Income-tax Act ?

2. The learned counsel for the applicant fairly concedes that so far as the first question is concerned the same is covered in favour of the assessee and against the revenue in view of the judgment in **Commissioner of Income Tax V/s. Hico Products Pvt. Ltd.** reported in **201 I.T.R.567**.

3. So far as the second question is concerned, it has become academic question in view of the finding recorded by the Tribunal.

4. So far as the third question is concerned, it revolves around finding of fact recorded by the authorities below based on material available on record. Thus, this application does not raise any substantial questions of law.

5. Hence application is dismissed in limine with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)